

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION SIX**

RESCAR, INC.

Employer

and

Case 6-RC-12620

UNITED STEEL, PAPER AND FORESTRY,
RUBBER, MANUFACTURING, ENERGY, ALLIED
INDUSTRIAL AND SERVICE WORKERS
INTERNATIONAL UNION, AFL-CIO, CLC¹

Petitioner

REGIONAL DIRECTOR'S DECISION AND DIRECTION OF ELECTION

The Employer, Rescar, Inc., is engaged in the repair and maintenance of railroad cars at its DuBois, Pennsylvania facility, the sole facility involved herein, where it currently employs approximately 88 employees. The Petitioner, United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC, filed a petition with the National Labor Relations Board under Section 9(c) of the National Labor Relations Act seeking to represent a unit of all full-time and regular part-time maintenance, repair, paint, clean and switch employees² employed by the Employer at its DuBois, Pennsylvania facility; excluding all office clerical employees and guards, professional employees and supervisors as defined in the Act, and all other employees. At the hearing and in their briefs³ the

¹ The name of the Petitioner appears as amended at the hearing.

² During the hearing, the parties stipulated that railcar mechanics, inspectors, valve rebuilders, valve finishers, railcar cleaners, painters, blasters, switchmen, maintenance employees and material handlers are properly included in the unit herein found appropriate. The parties also stipulated, and I find, that Manager of Inspection Dross Hunter is a supervisor within the meaning of Section 2(11) of the Act, and is, therefore, properly excluded from any unit found appropriate.

³ Both parties filed timely briefs in this matter which have been duly considered by the undersigned.

parties disagree on whether the Employer currently employs a substantial and representative complement of employees. The Employer seeks to have the petition dismissed as premature in view of the Employer's renovation and rebuilding of the facility and its planned expansion of the workforce. The Petitioner contends that an election should be ordered now in view of the substantial number of employees currently employed in the vast majority of the job classifications the Employer plans to have when renovations are complete.

The parties also disagree as to the supervisory status of Inventory Control Associate Faith Clark. The Employer, contrary to the Petitioner, contends that Clark should be excluded from the unit solely on the basis that she is a statutory supervisor. Finally, the parties differ as to the unit placement of Customer Service Representative Joan Hockman and Weld/Safety Trainer James Albert. The Employer, contrary to the Petitioner, contends that Hockman is a plant clerical who must be included in the petitioned-for unit. The Petitioner contends that Hockman is an office clerical. Finally, the Employer contends that Albert must be included in the unit found appropriate based on his strong community of interest with the employees in the petitioned-for unit, while the Petitioner contends that he has a community of interest distinct from the employees in the petitioned-for unit. There is no history of collective bargaining in the petitioned-for unit.

I have considered the evidence and the arguments presented by the parties as to the issues involved in this matter. I have concluded, as discussed below, that the Employer's current workforce, at the time of the hearing, constitutes a substantial and representative complement of the Employer's ultimate workforce. With respect to the status of Faith Clark, I have concluded that the Employer has not met its burden of establishing that Clark is a statutory supervisor. I have further concluded that neither

Customer Service Representative Joan Hockman nor Weld/Safety Trainer James Albert share a community of interest with the petitioned-for employees which is sufficient to require their inclusion in the unit. Accordingly, I have directed an election in a unit of approximately 86 employees.

To provide a context for my discussion of the issues, I will first provide an overview of the Employer's operations. Then, I will present in detail the facts and reasoning that support my conclusions on the issues.

I. OVERVIEW OF OPERATIONS

The Employer is headquartered in Downers Grove, Illinois, and has six major plants at which railcars are repaired and refurbished. The Employer's plants are located in Elk Mills, Maryland; Gordon, Georgia; Longview, Texas; Channelview, Texas; Orange, Texas; and DuBois, Pennsylvania. At the DuBois facility, the sole facility involved herein, about 70 percent of the Employer's business involves cleaning, repairing, painting and lining tank cars which transport liquid and gaseous products.⁴ About 30 percent of the Employer's business at this facility involves cleaning, painting and repairing hopper cars, which carry bulk dry products.

The DuBois operation takes place in multiple buildings located on 38 acres of land. Four sets of railroad tracks run through the Employer's repair shop, the largest building on the property, where cars are inspected and physically repaired. The valve shop, where valves are repaired or rebuilt, is also located in this building. Situated on the Employer's property is a power house, an office building, an inspection building, cleaning buildings, and various storage buildings.

Before July 1, 2007, a 20,000 square foot semi-circular building served as the Employer's paint shop, where 23 employees worked. This building was completely

⁴ The Employer's customers are companies that own or lease rail cars, such as Exxon, Occidental, Phillips, General Electric and GATX Corporation.

destroyed by a fire which broke out on July 1, 2007. The fire caused the Employer's operation to completely shut down for five to seven days. After the fire, certain paint department employees were offered temporary relocation to the Employer's Orange, Texas, facility. Initially, nine employees relocated and a few others were trained to perform other work at the facility.⁵

The record indicates that prior to the fire, the Employer had a three-year plan for renovating the facility in order to modernize the buildings and to increase the Employer's capacity. When the fire occurred, the Employer accelerated its renovation plan such that construction on the facility began in November 2007.⁶ As of the time of the hearing, the scheduled date for substantial completion of the project was June 2008. From an efficiency, automation and capacity standpoint, all of the renovated buildings will be greatly improved, as will be discussed infra. When the renovations are complete, the DuBois facility will be the Employer's largest facility. It is anticipated that approximately 145 employees will be employed in unit positions at this facility.⁷

The overall operations at the DuBois facility are the responsibility of Plant Manager Tim Schaffer. Reporting to Schaffer is Assistant Plant Manager Jerry Federico. Three superintendents, Superintendent Repair Jim Aughenbaugh, Superintendent Paint/Lining Ken Flanders and Superintendent Cleaning Bob Gerew, report directly to Federico. Also reporting directly to Federico is Manager of Inspection Dross Hunter,

⁵ At the time of the hearing, two supervisors and three paint department employees were still working at the Orange facility. Of the 23 paint department employees employed as of July 1, 2007, approximately 15 are currently on layoff. The balance of the paint department employees are apparently working in other departments. During the hearing, the parties stipulated, and I find, that those employees who were laid off as a result of the fire are laid off employees with an expectation of recall, and are therefore eligible to vote in the election directed herein.

⁶ The contract between the Employer and the renovation contractor was executed on January 18, 2008.

⁷ The Employer operates on the day shift as it did before July 1, 2007. When renovations are complete, the Employer plans to add a second shift.

Manager Quality Assurance,⁸ Manager Switching Jim Stoddard, two maintenance employees, Inventory Control Associate Faith Clark, Purchasing Coordinator Toni Vanderpool and Billing and Invoicing Marla Swisher.⁹

Reporting to Superintendent Repair Aughenbaugh are three repair supervisors and one valve supervisor.¹⁰ Thirty-five rail car mechanics report to the repair supervisors. When the facility is fully staffed, the Employer plans to employ four repair supervisors on the first shift. The Employer also plans to add a second shift and will employ one repair supervisor on the second shift. At that time, 12 rail car mechanics will report to each rail supervisor, such that the Employer will employ a total of 60 rail car mechanics at that time. The Employer also anticipates employing one fabrication employee in the Repair Department. In the valve shop, there is one valve supervisor and there are five valve rebuilders and five valve finishers. The Employer plans to add one valve rebuilder when the reconstruction is complete.

Superintendent Paint/Lining Flanders has one direct report, Supervisor-Paint/Lining Jim Tressler. Both Flanders and Tressler are currently working at the Employer's Orange, Texas, facility where they have worked since shortly after July 1, 2007. Fifteen of the 23 hourly paint department employees who were employed as of July 1, 2007, are currently laid off.¹¹ When the plant is fully staffed, the Employer plans to operate a second shift and will employ a night shift supervisor in the Paint

⁸ This position is currently vacant.

⁹ Organizationally, Purchasing Coordinator Toni Vanderpool is part of the Inventory Department and Billing and Invoicing Marla Swisher is part of the Inspection Department. In its brief, the Employer asserts that the parties "stipulated" that the two employees occupying the purchasing coordinator and billing and invoicing positions should be excluded as office clerical employees. No such stipulation is contained in the record. However, I note that neither position was at issue in this proceeding. Accordingly, I make no findings with regard to their status.

¹⁰ At the present time, all members of management, supervisory employees and all other employees work on day shift inasmuch as the Employer operates one shift.

¹¹ As noted, the parties stipulated that these employees are eligible to vote.

Department. The Employer anticipates employing 40 hourly employees in the Paint Department.¹²

Superintendent Cleaning Gerew oversees six general purpose cleaners. The Employer anticipates that when renovations are complete, it will increase its cleaning employees to nine.¹³ In the Inventory Management Department, the Employer now employs one purchasing employee, one inventory control/receiving and one material handler/forklift driver. No change is anticipated in this area. Likewise, no change is planned for the non-supervisory positions in the Quality Assurance and Switching Departments.

The Inspection Department currently includes one customer service representative, one billing and invoicing employee, five inbound and estimating inspectors,¹⁴ six inspection track inspectors¹⁵ and one NDT, or non-destructive testing, inspector, a position which was vacant at the time of the hearing. Upon completion of the renovations, the Employer will add one inbound and estimating inspection position and plans to fill the now vacant NDT inspector position.

The Maintenance Department presently consists of two maintenance personnel. The Employer plans to add one janitor position when the renovations are complete. The Employer also currently employs one weld/safety trainer,¹⁶ and there are no plans to employ additional trainers.

¹² The Employer will employ 10 blasters, 8 painters and 2 stencilers on the day shift. The Employer also plans to employ 10 blasters on the night shift. Also working in the paint department will be 10 finisher/prep employees.

¹³ The Employer plans to separate the job classifications in the cleaning department so that after completion of the renovations it will employ two general purpose, one high pressure, two sandblast/hydroblast, two hopper car and two dig out cleaners.

¹⁴ These inspectors are commonly referred to in the record as "write up" inspectors.

¹⁵ The inspection track inspectors report to the inspection track supervisor.

¹⁶ In exhibits received into evidence at the hearing the Employer includes the weld/safety trainer position in the "Management and Administration" category along with the plant manager, assistant plant manager and receptionist/human resources.

The Employer's process starts with notification from a customer that a rail car is being sent to the facility. Customer Service Representative Joan Hockman compiles a car file with information on the particular rail car and the repairs and/or renovations to be performed. The car is delivered to one of the Employer's railroad tracks. At this point, employees performing both write-up inspection and cleaning functions will verify the information gathered by Hockman as to the car and will preliminarily inspect the car. The rail car is then routed to either the inspection track or the cleaning track. If the car is sent to the cleaning track, a crew of six employees either steam cleans or flares¹⁷ the car before sending it on to be inspected. A crew of inspectors inspects the car, which may involve placing the car on a jack and performing "cut-outs" or other testing such as air brake testing or a "bubble leak" test.¹⁸

The rail car is then ready for write-up inspectors to examine the car for additional defects. They record notes, which are used to generate a work order and a repair estimate. The estimate is then e-mailed to the customer by Hockman for approval within one to two days.¹⁹

Once the estimate is approved, a copy of the work order with the material list is printed and sent to Inventory Control Associate Faith Clark to assess the inventory needs.²⁰ Clark reports on the status of the inventory for work orders in progress at each

¹⁷ Flare refers to a high pressure cleaning on a flare rack.

¹⁸ A cut-out is described in the record as the cutting away of the outer layer of the tank with a plasma cutter in order to view the tank shell to look for defects in the welded areas. A bubble leak test involves adding air to the car to test the integrity of the valves and fittings. A failed bubble leak test requires the removal of the valves and testing of the valves by a valve installer or valve finisher who determines whether the valve can be rebuilt or must be replaced.

¹⁹ If customer approval is not forthcoming, Customer Service Representative Hockman calls the customer.

²⁰ If parts are required, Clark completes a requisition form and submits it to Purchasing Coordinator Vanderpool.

morning production meeting. When the required material is on hand, the car is put in queue for the repair shop.

Repair mechanics perform the necessary repair work, which is subject to final inspection by the QA inspectors. If all work is satisfactorily completed, the QA inspector places a green tag on the car and informs Customer Service Representative Hockman. Hockman then calls the customer to request disposition, or routing, of the car. Hockman then prepares the weigh bill with routing instructions for the carrier who will return the car to its owner.

Before July 1, 2007, when the Employer's paint shop was operating, rail cars requiring painting after repair work were sent to the paint shop. There, painters prepped the rail car.²¹ If the rail car required blasting, it would be sent through the blasting process before moving on to painting.²² After the interior and exterior painting was completed, a car requiring stenciling was worked on by the paint department stenciler.²³ After any stenciling and final inspection, the car is ready for return for the customer.

All employees enjoy company-wide medical benefits, vacation, bereavement leave, a 401(k) plan and a profit sharing plan regardless of whether they are salaried or hourly paid. It appears that hourly paid employees work from 6 a.m. to 2:30 p.m.²⁴ Hourly employees punch a time clock, whereas salaried employees do not.

The Employer classifies its employees as either direct labor employees or indirect labor employees. Direct labor employees work directly on the rail car and their

²¹ Prepping includes such functions as taking film thickness readings of the existing coating, and removing components from the car to prevent damage to them during the blasting process.

²² Employees who performed blasting are classified as painters.

²³ Stenciling is the application of a decal containing information such as the car number, load limit, light-weight capacity and size of the car.

²⁴ Depending on whether a project is close to completion, employees may work until 3:30 or 4 p.m. Inventory Control Associate Faith Clark testified that her hours are 6 a.m. to 3 p.m. with a one-half hour lunch period.

work is billable to the customer. Indirect labor employees, including management and supervision, are those employees who support direct labor employees. The record indicates that performance evaluations for direct labor employees take place in December of each year and that performance evaluations for indirect labor employees are done separately. The Employer provides hard hats to employees which must be worn in the shop areas. The color of the hard hat issued differs depending upon an employee's status. Supervisors, mentors, safety personnel, hourly employees, new hires and visitors wear white, green, red, orange, yellow and blue hard hats, respectively.

The facility has two break rooms, one in the main office building used by those who work in that building²⁵ and one near the power house which is used by repair shop employees, the inventory control associate and the material handler. A large parking area for all employees is located between the Employer's main office and the power house and extends to the far side of the Employer's property line, outside of which is a set of railroad tracks.

II. REPRESENTATIVE COMPLEMENT

It is well settled that the Board will direct an immediate election, notwithstanding an employer's plan to expand its workforce, when the employer's current complement of employees is "substantial and representative" of the unit workforce to be employed in the near future. The Board's objectives are to ensure current employees' right to select or reject a bargaining representative notwithstanding the employer's plans to expand in the near future. However, the Board does not desire to impose a bargaining representative on a number of employees hired in the immediate future based upon the vote of a few currently employed individuals. See Toto Industries (Atlanta), 323 NLRB 645 (1997);

²⁵ Customer Service Representative Joan Hockman and the write-up inspectors use the break room in this building.

General Cable Corp., 173 NLRB 251 (1968); Endicott Johnson de Puerto Rico, Inc., 172 NLRB 1676 (1968); Libbey Glass Division, 211 NLRB 939 (1974). In general, the Board finds an existing complement of employees to be substantial and representative when approximately 30 percent of the eventual employee complement is employed in 50 percent of the anticipated job classifications. Yellowstone International Mailing, 332 NLRB 386 (2000); Custom Deliveries, 315 NLRB 1018, 1019 fn. 8 (1994). See also Shares, Inc., 343 NLRB 455 (2004).

Factors used to determine whether the employee complement is sufficiently substantial and representative to order an immediate election in an expanding unit include: (1) the size of the present work force at the time of the representation hearing; (2) the size of the employee complement who are eligible to vote; (3) the size of the expected ultimate employee complement; (4) the time expected to elapse before a full work force is present; (5) the rate of expansion, including the timing and size of projected interim hiring increases prior to reaching a full complement; (6) the certainty of the expansion; (7) the number of job classifications requiring different skills which are currently filled; (8) the number of job classifications requiring different skills which are expected to be filled when the ultimate employee complement is reached; and (9) the nature of the industry. Toto Industries (Atlanta), supra; General Cable Corp., supra; Endicott Johnson de Puerto Rico, Inc., supra; Libbey Glass Division, supra. The Board utilizes a case-by-case approach by analyzing the relevant factors of each case. Clement-Blythe Co., 182 NLRB 502 (1970), enfd. 77 LRRM 2373 (4th Cir. 1971).

As of the hearing in this matter, the Employer contended that the 87 employees currently working or laid off with an expectation of recall²⁶ in 17 job classifications should

²⁶ As noted previously, the parties stipulated that the paint department employees on layoff due to the July 1, 2007 fire are laid off employees with the expectation of recall and are, therefore, eligible to vote.

be included in the unit.²⁷ Those job classifications and the number of employees filling the job classifications as of February 21, 2008 were: 35 repair mechanics, 1 customer service representative, 5 inspectors-write-up, 6 inspectors-inspection track, an inspector NDT (vacant), 5 valve rebuilders, 5 valve finishers, 6 general purpose cleaners, 9 blasters, 4 painters, 1 stenciler, 1 other/finisher/prep, 3 switchmen, 2 maintenance personnel, 2 QA inspectors-in process and outbound, 1 material handler/forklift driver, and 1 weld/safety trainer.²⁸

According to the Employer's assessment of its post reconstruction needs, it will employ 145 employees in 23 job classifications when it is fully staffed.²⁹ The six new job classifications the Employer plans to add and the number of employees needed to fill those new classifications are as follows. In the repair department, the Employer will add one employee in the job classification of fabrication. In the cleaning department, the Employer will add two employees in each of the job classifications of sandblast/hydroblast, hopper car and dig out cleaning. In the Maintenance Department, the Employer will add one janitor. However, none of the new job classifications will require different skills than the skills possessed by the existing employees.

Based on the above, it is clear that the Employer currently employs well over 30 percent³⁰ of its anticipated total employee complement. In addition, the Employer

²⁷ These numbers are derived from Employer Exhibit 10 introduced by the Employer at the hearing. Different totals derived from this exhibit which appear in the Employer's brief are unexplained.

²⁸ The Petitioner contends that the weld/safety trainer and the customer service representative should be excluded and that the inventory control associate should be included in the unit. Thus, the Petitioner contends that 86 employees working in 16 job classifications should be included in the unit.

²⁹ These numbers are derived from Employer Exhibit 11 introduced by the Employer at the hearing. Different totals derived from this exhibit which appear in the Employer's brief are unexplained.

³⁰ The Employer currently employs approximately 60 percent of its anticipated total employee complement.

currently has employees working in approximately 74 percent of the anticipated job classifications. Based upon my findings herein, the Employer currently employs approximately 59 percent of its anticipated total employee complement in approximately 70 percent of the anticipated job classifications. Because more than 30 percent of the eventual employee complement is currently employed in more than 50 percent of the anticipated job classifications, the Employer's current workforce, at the time of the hearing, is a substantial and representative complement of the Employer's ultimate workforce.³¹

Accordingly, I find that the present complement of employees is sufficiently representative and substantial to warrant holding an immediate election.

III. SUPERVISORY ISSUE

The Employer, contrary to the Petitioner, asserts that Inventory Control Associate Faith Clark should be excluded from the unit found appropriate solely on the basis that she is a statutory supervisor. In this regard, I note that Clark otherwise performs substantial duties similar to the material handler who the parties agree should be included in the unit.

A. Legal Standard

Before examining the specific duties and authorities of Clark, I will review the requirements for establishing supervisory status. Section 2(11) of the Act defines the term supervisor as:

[A]ny individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the

³¹ In its brief, the Employer improperly omits the laid off paint department employees in the number of employees currently employed, and asserts that the painters and blasters will go from zero to 40 employees after the reconstruction is complete. In reality, the number of paint department employees will increase from at least 15 to 40 employees.

foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

In considering whether the individual at issue here possesses any of the supervisory authority set forth in Section 2(11) of the Act, I am mindful that in enacting this section of the Act, Congress emphasized its intention that only supervisory personnel vested with “genuine management prerogatives” should be considered supervisors, and not “straw bosses, leadmen, set-up men and other minor supervisory employees.” Chicago Metallic Corp., 273 NLRB 1677, 1688 (1985). Thus, the ability to give “some instructions or minor orders to other employees” does not confer supervisory status. *Id.* at 1689. Indeed, such “minor supervisory duties” should not be used to deprive such individuals of the benefits of the Act. NLRB v. Bell Aerospace Co., 416 U.S. 267, 280-281 (1974), quoting Sen. Rep. No. 105, 80th Cong. 1st Sess., at 4. In this regard, I note that the Board has frequently warned against construing supervisory status too broadly because an individual deemed to be a supervisor loses the protection of the Act. See, e.g., Vencor Hospital – Los Angeles, 328 NLRB 1136, 1138 (1999); Bozeman Deaconess Hospital, 322 NLRB 1107, 1114 (1997).

The burden of proving supervisory status rests on the party asserting that such status exists. NLRB v. Kentucky River Community Care, Inc., 532 U.S. 706, 711-712 (2001); Arlington Masonry Supply, Inc., 339 NLRB 817, 818 (2003); Dean & Deluca New York, Inc., 338 NLRB 1046, 1047 (2003). As a general matter, I note that for a party to satisfy the burden of proving supervisory status, it must do so by a preponderance of the credible evidence. Dean & Deluca, *supra* at 1047; Star Trek: The Experience, 334 NLRB 246, 251 (2001). Accordingly, any lack of evidence in the record is construed against the party asserting supervisory status. See Williamette Industries, Inc., 336 NLRB 743 (2001); Michigan Masonic Home, 332 NLRB 1409 (2000). Moreover, “[w]henver the evidence is in conflict or otherwise inconclusive on particular indicia of supervisory

authority, [the Board] will find that supervisory status has not been established, at least on the basis of those indicia.” Phelps Community Medical Center, 295 NLRB 486, 490 (1989). Consequently, mere inferences or conclusionary statements without detailed specific evidence of independent judgment are insufficient to establish supervisory status. Sears, Roebuck & Co., 304 NLRB 193 (1991).

Possession of authority consistent with any of the indicia of Section 2(11) is sufficient to establish supervisory status, even if this authority has not yet been exercised. See, e.g., Fred Meyer Alaska, 334 NLRB 646, 649 fn. 8 (2001); Pepsi Cola Co., 327 NLRB 1062, 1064 (1999). The absence of evidence that such authority has been exercised may, however, be probative of whether such authority exists. See Michigan Masonic Home, supra, at 1410; Chevron USA, 309 NLRB 59, 61 (1992). The Board and the Courts have recognized that an employee does not become a supervisor merely because he has greater skills and job responsibilities than fellow employees or because he gives some minor instructions or minor orders. Byers Engineering Corp., 324 NLRB 740 (1997); Chicago Metallic Corp., supra.

B. Analysis of Supervisory Status

With regard to whether Inventory Control Associate Clark possesses any of the 12 indicia of supervisory status listed in Section 2(11) of the Act, it is noted that the Employer does not contend nor is there any record evidence to establish that Clark has the authority to transfer, suspend, lay off, recall, promote, discharge, reward or adjust employee grievances. In its brief, the Employer asserts that Inventory Control Associate Clark possesses the authority to hire and to discipline. The Employer further contends that Clark directs the work of the material handler. Accordingly, I will describe Clark’s duties and will then address only the Employer’s arguments that Inventory Control Associate Clark is a supervisory employee because she has the authority to hire,

discipline and to make assignments to and direct the work of Material Handler George Berloff.

Since October 2007, Clark has been primarily involved with the Employer's inventory and receiving functions.³² In her capacity as Inventory Control Associate, Clark unloads trucks, organizes materials, checks inventory by physical count or random sampling, orders supplies, generates requisitions for material and performs material checks.³³ If Clark finds discrepancies after comparing the information on the packing slip with the purchase order, she places the non-conforming material in a holding area. She then communicates her findings to Purchasing Coordinator Toni Vanderpool.

Clark attends a production meeting which is held daily in the morning.³⁴ Also present at this meeting are Plant Manager Schaffer, Assistant Plant Manager Federico, the Superintendents from the Repair, Cleaning and Painting departments, the valve supervisor, Customer Service Representative Joan Hockman and Purchasing Coordinator Toni Vanderpool. The purpose of the daily meeting is to review the status of the cars at the facility.

³² Clark has been employed by the Employer since 1997. She began her employment as a secretary, after which she became an Administrative Assistant for six years. Clark was promoted to the position of QA Manager before becoming a Process Outbound Inspector. In June 2007, Clark was placed in the position of supervisor for inspection track, where she worked until October 2007 when she was placed in her current position.

³³ Clark's job description was introduced into evidence at the hearing by the Employer. The job description describes the purpose and scope of the inventory control associate position as follows. The Inventory Control Associate is responsible for receiving inbound shipments, verifying materials and storing them properly in their designated inventory area. The associate will review inbound shipments to ensure the materials match between the purchase order and the packing slip. The associate will deliver goods to the appropriate department and designated inventory area. The associate will quantify any inventory/inbound shipment problems and provide the Purchasing Agent with the key information to resolve with our vendors. In this role, the Inventory Control Associate is responsible for ensuring the purchasing/inventory process/procedures conform to the company quality system and high work standards to ensure that all activities meet or exceed all business goals, customer requirements, Rescar process/procedures, safety standards, and service metrics.

³⁴ In its brief, the Employer refers to this meeting as a management status meeting. However, Plant Manager Schaffer testified that the meeting is a production meeting attended by supervisors, himself "*and other personnel.*"

A portion of Clark's day involves assembling paperwork and packing slips. Clark apparently performs these functions in an office in the powerhouse where she and Material Handler George Berloff have desks. Clark has a telephone, computer and small photocopying machine in her office. Both Clark and Berloff are hourly paid and punch the time clock. Clark's wage range is between \$16 and \$20 per hour, which is the same wage range as is paid to maintenance employees and in-process and outbound inspectors. Clark wears an orange "hourly employee" hard hat at work. Material Handler Berloff's wage range begins at \$13 per hour.³⁵ According to Clark, Berloff fills in for her when she is absent. Since October 2007, Clark has not filled in for any supervisor at the facility.

1. Hiring

The Employer asserts, with respect to hiring, that Clark has the authority to participate, with the Assistant Plant Manager, in the interview of and employment decision concerning a prospective material handler. Admittedly, Clark has not exercised such authority because the Employer has not had occasion to hire a material handler since Clark assumed her current position. Clark testified that she has never been informed that she will have any role with respect to the hiring of a material handler or any employee. Clark's job description³⁶ does not refer to any authority in the area of hiring. It thus appears that Clark lacks true supervisory authority in this area.

2. Discipline

The Employer asserts that Clark has the authority to recommend discipline to the Assistant Plant Manager, but has no evidence that she has ever exercised such authority. Again, Clark testified that she has never been informed that she has any

³⁵ Plant Manager Schaffer was uncertain as to the top of the wage range for Berloff's position.

³⁶ Clark testified that she had never been given her job description prior to the hearing, but that the document accurately reflects her duties.

authority with respect to recommending discipline, and that she has never disciplined or recommended discipline for any employee.³⁷ In addition, Clark's job description reflects no such authority. In fact, the word discipline does not appear in her job description. Notably, the job descriptions for the superintendents and supervisors refer to their disciplinary responsibilities under the heading of "discipline/supervision." The record does not support the contention that Clark has the authority to recommend or issue discipline.

3. Assignment and Responsible Direction

According to Plant Manager Schaffer, Clark gives guidance to material handler George Berloffia regarding daily duties. In this regard, the Employer contends that Clark decides the specific duties she and Berloffia will perform each day. According to Clark, she and Berloffia spend about 20 minutes per day dividing their tasks. In dividing tasks each day, Clark and Berloffia consider their individual strengths. The balance of Clark's and Berloffia's day is spent sharing the inventory functions of unloading trucks, organizing materials, stocking shelves, checking inventory by physical count or random sampling, ordering supplies, generating requisitions for material, performing material checks and operating the forklift.³⁸ If the situation arises where an e-mail message must be sent, Clark will handle this duty inasmuch as she has computer skills which Berloffia does not possess.

The Board has recently addressed "assigning" work to employees and "responsibly directing" employees, or effectively recommending such actions, in Oakwood Healthcare, Inc., 348 NLRB No. 37 (2006), Croft Metals, Inc., 348 NLRB No.

³⁷ Clark's understanding of her role with respect to any discipline is that she would be limited to simply reporting any infractions to the Assistant Plant Manager.

³⁸ Supervisors contact either Clark or Berloffia over the radio for necessary components in their department. Either Clark or Berloffia will then deliver the components.

38 (2006) and Golden Crest Healthcare Center, 348 NLRB No. 39 (2006). In accordance with the Board's decisions in these three cases, if the record establishes that the purported supervisor satisfies the Board's stated definitions for either assigning or responsibly directing other employees, or effectively recommending such actions, then it must be determined whether they do so using the Board's stated definition of "independent judgment." Oakwood Healthcare, slip op. at 10.

In Oakwood Healthcare, the Board defined "assign" as the act of designating an employee to: a place, such as location, department or wing; or a time, such as shift or overtime; or a task, which must involve "significant overall duties," not ad hoc instructions to perform a discrete task. Slip op. at 4.

In Oakwood Healthcare, the Board defined "responsibly to direct" as the act of directing what job shall be done next or who shall do it, provided that the direction is both "responsible" and carried out with "independent judgment." Slip op. at 6. "Responsible" means "accountable," which requires a showing that the person directing the performance of a task must be held accountable for the performance of that task, and must have the authority to correct any errors made. In other words, there must be a prospect of adverse consequences to the person directing the work if the work is not performed properly or no corrective action is taken. Slip op. at 7.

Additionally, there must be evidence of actual accountability, i.e., more than a merely paper showing that there is a prospect of adverse consequences. Where accountability is reflected in employee evaluations, there must be evidence that the rating for direction of subordinates may have an effect on that person's terms and conditions of employment. Golden Crest, slip op. at 5.

In Oakwood Healthcare, the Board explained that "independent judgment" means to act free of the control of others and form an opinion or evaluation by discerning and comparing data, provided that the act is "not of a merely routine or clerical nature."

Actions form a spectrum between the extremes of completely free actions and completely controlled ones, and the degree of independence necessary to constitute a judgment as “independent” lies somewhere in between those extremes. Slip op. at 8. To be an independent judgment, the act must involve a degree of discretion that rises above the “routine or clerical.” Oakwood Healthcare, slip op. at 8.

The record establishes that Clark does not assign or responsibly direct Berloff as those terms are used in Section 2(11) of the Act. Clark and Berloff jointly divide their tasks. There is no showing in the record that Clark designates where Berloff is to perform his work. She has no control over his hours. At most, Clark provides ad hoc instructions to perform a discrete task; however, the record indicates that any such “instructions” are usually no more than a request for assistance. Moreover, Clark has never been disciplined for any deficiency in Berloff’s work and she has never been informed that she would be disciplined for such a deficiency.

Based on the above and the record as a whole, the Employer has not carried its burden of proving that the inventory control associate is a supervisor. Accordingly, I find that Clark is not a supervisor within the meaning of the Act, and I will include her in the unit found appropriate herein.

IV. OTHER PLACEMENT ISSUES

A. Customer Service Representative

The Petitioner, contrary to the Employer, seeks to exclude Customer Service Representative Joan Hockman as an office clerical employee. The Employer contends that Hockman is a plant clerical employee who must be included in the unit.

Joan Hockman is the customer service representative who, while nominally assigned to the Inspection Department, works in the main office. Hockman reports to Manager Inspection-Inbound and Estimating Dross Hunter. Also reporting to Hunter are

Supervisor of Inspection Rick Lucas, the NDT technician and six inspectors-inbound and estimating.³⁹

Hockman works almost exclusively at her desk in the Employer's main office building with the billing and invoicing employee⁴⁰ and the write-up inspectors.⁴¹ According to the Employer, when the renovations at the facility are complete, this group of employees will be moved to an inspection office in a modular office building which will be located outside an inspection track building.⁴²

Hockman is responsible for compiling a file for each rail car each time the Employer is notified that a customer is sending a car to the facility. Hockman communicates with the customer, or in some cases, she accesses their computer system to obtain information such as car number, reason for service, scope of work and any known defects. Hockman also includes all specifications of the rail car⁴³ in the car file. The car file prepared by Hockman follows the railcar through the repair and renovation process.

Once the car has been processed and inspected for quality by the QA inspector, a green tag is applied to the car by the QA inspector. At this point, the QA inspector apprises Hockman of the car's status and returns the car file to her. Hockman then updates the customer. When the disposition of the car is determined, Hockman

³⁹ The NDT technician position and one of the six inspectors-inbound and estimating positions are currently vacant.

⁴⁰ As noted previously at footnote 9 herein, neither party seeks to include the billing and invoicing employee in any unit found appropriate herein.

⁴¹ The inspection track inspectors do not work in the main office building.

⁴² It appears that the inspection track inspectors will work in the inspection building.

⁴³ Specifications include gasket specifications, O-ring requirements and fleet maintenance instructions.

prepares a weigh bill⁴⁴ and submits it to the railroad carrier for delivery of the railcar to the customer.

Hockman utilizes a telephone and computer in her work. She communicates with customers via telephone and e-mail. Hockman has, on rare occasion, filled in to perform payroll duties. The record indicates that when Hockman is absent, one of the write-up inspectors or Manager Hunter will perform certain functions, such as calling the customer to get a necessary approval.

Hockman wears casual business attire to work. If she is required to go into a shop area, which appears to occur extremely infrequently, she would be required to wear safety gear. The record indicates Hockman has a white hardhat, and that the only other individuals who wear white hardhats are supervisors.

Hockman is a salaried employee. She earns between \$35,000 to \$50,000 per year. The write-up inspectors with whom she works are hourly paid and earn between \$16 and \$20 per hour. Hockman takes her breaks in the kitchen area of the main office building. It appears that the write-up inspectors also take breaks there.

In determining whether an employee should be considered an office clerical employee or a plant clerical, it must be determined whether the employee's functions are closely associated with the production process. Hamilton Halter Co., 270 NLRB 331 (1984). As the Board pointed out in Hamilton Halter, the line between plant clerical and office clerical is not always easily distinguishable. In this regard, the Board has long held that the distinction between office and plant clericals is rooted in community of interest concepts. Mitchellace, Inc., 314 NLRB 536 (1994). In determining whether an employee is a plant or office clerical, the Board has additionally considered the location where the individual performs his or her work and the amount of time the employee spends performing other duties.

⁴⁴ The weigh bill is the routing instructions for the railroad carrier.

In Container Research Corp., 188 NLRB 586, 587 (1971), the Board determined the status of several clerical positions. Material planners who scheduled production and usage of materials were found to be plant clerical positions because the position required contact with the production and maintenance employees and the material planners received comparable salaries and fringe benefits and were subject to the same supervisors. Likewise, the expeditors and production control coordinators at issue, who spent “95 percent” and “virtually all” of their time on the shop floor, were determined to be plant clericals. However, in determining that the estimator was an office clerical employee, the Board noted that the estimator spent 90 percent of his time in the general office area away from the production floor, and entered the floor only when necessary to get data. Notably, contract coordinators, who spent 15 percent of their time typing and the balance securing and maintaining various manufacturing and production records and shipping logs were also found to be office clericals. The Board so found because their contacts with the production and maintenance employees occurred primarily in the office area away from the production floor, and because the contract coordinators worked different hours and they were not docked when absent.

In more recent cases involving the office versus plant clerical distinction, the Board has continued to pay particular attention to the amount of time that disputed clericals spent interacting with and/or interchanging with production and maintenance employees. In Avecor, Inc., 296 NLRB 727 (1989), an order entry clerk and a lab secretary were at issue. The order entry clerk’s duties involved receiving customer orders by telephone, preparing paperwork for those orders utilizing normal office equipment, and generating shipping paperwork. The order entry clerk provided production information to the production manager and shipping information to the shipping manager. The Board found the order entry clerk to be an office clerical employee, noting that her work location was in the main office where office clericals were located and that she was not subject to the overtime requirements which affected most of the unit employees. The lab secretary at issue in Avecor worked out of the lab manager’s

office and produced paperwork on the lab and production reports. This employee was supervised by the lab manager and spent 25 percent of her time in direct contact with the lab or production employees. At work, she utilized a computer and regular office equipment. Again, based on the primary location of the lab secretary's work and her general office type work, she was found to be an office clerical employee. Particularly noteworthy was that neither the data entry clerk nor the lab secretary performed any production work, even on a sporadic or part-time basis. The Board reached this conclusion notwithstanding that the paperwork generated related to production work.

In Virginia Manufacturing Company, 311 NLRB 992 (1993), the Board found that the production control clerk, who reported to the plant superintendent and whose primary job function was compiling production information and keeping track of the raw materials used in the production process, was an office clerical employee. The Board noted that this clerk spent 60 percent of his work time in an office housed in the production area, and 40 percent of his time on the production floor obtaining information for his reports. Even though the production control clerk's monitoring placed him in daily contact with the unit employees, the Board found that these duties were incidental to his primary function of preparing the daily reports, the preparation of which occupied the majority of his working time. Likewise, in Cook Composites and Polymers Co., 313 NLRB 1105 (1994), the Board upheld the finding that the manufacturing data entry operators were office clerical employees. Their essential job duty was to enter data from batch tickets into the computer system. The operators were also responsible for generating address labels for shipping, assigning freight carriers, and filing pick tickets, packaging slips and bills of lading. Although the data entry operators received the same starting pay, identical benefits and safety training as unit employees, the Board found them to be office clericals because they had minimal contact with other unit employees. Those contacts were limited to occasionally walking into the areas where unit employees worked to retrieve batch tickets or shipping documents. The data entry operators directed

problems with batch tickets to the inventory manager. In addition, the data entry operators did not wear employer-provided uniforms.

Based on the record evidence, I find that customer service representative Hockman is an office clerical, rather than plant clerical employee, and that she does not share a community of interest with the production and maintenance employees sufficient to require her inclusion in the unit. The record discloses that Hockman's primary duties are related to general office operations. Hockman works in the main office building, which is separate from the repair and inspection shops. Hockman does not punch a timeclock and is not required to wear safety items. Hockman's primary function is to create the car file and keep records associated with the file from which she prepares invoices and bills customers for chargeable costs. Although Hockman has contact with other unit employees, such contacts are for the purpose of assuring that the rail cars are properly serviced and that customers are adequately serviced. Such contacts are not sufficient to require her inclusion in the unit. The record contains no evidence that Hockman performs actual production work. Like the employees found to be office clerical employees in Container Research, Avecor, Virginia Manufacturing, and Cook Composites and Polymers, she is engaged in job tasks and duties which are office clerical rather than plant clerical in nature. Accordingly, I shall exclude her from the unit.

B. Weld/Safety Trainer

The Petitioner, contrary to the Employer, seeks to exclude Weld/Safety Trainer James Albert as lacking a sufficient community of interest with the petitioned-for unit. The Employer contends that Albert shares such a strong community of interest with the unit as to require his inclusion therein.

James Albert was hired to work as a full-time trainer at the DuBois facility approximately three months ago. Albert is a salaried employee and he does not punch a

time clock.⁴⁵ The record establishes that the Employer's corporate office was involved in the decision to hire and the hiring of the weld/safety trainer.⁴⁶ Since his employment at the DuBois facility, Albert reports to the corporate office with a "dotted-line" reporting relationship to Plant Manager Schaffer. Albert has an office in the Employer's repair shop.

Albert's primary function is to provide training to all newly-hired railcar mechanics.⁴⁷ New employees spend the first three to four days of their employment with Albert in classroom training on welding fundamentals and techniques and torch cutting. This portion of the training takes place in the Employer's conference room. After this phase of the training is complete, Albert provides hands-on training for a two to four week period in the Employer's weld lab area. Albert is responsible for checking the quality of the work done by the trainees. The record indicates that Albert and the employees being trained have fabricated equipment for use in the plant as assigned by the plant manager, assistant plant manager, superintendent or supervisor. In this regard, it appears that Albert has participated in fabricating a track torch table, shelves and gang boxes.

Albert also completes paperwork on the training of each new hire.⁴⁸ Currently, Albert trains two to four new employees at a time, but the Employer plans to have Albert

⁴⁵ Although the record establishes that Albert is salaried, Plant Manager Schaffer testified that Albert's wage rate is unknown to Schaffer. Similarly, no job description exists for Albert's position, inasmuch as at the time of the hearing, the position was fairly new.

⁴⁶ The record indicates that the corporate office is not involved in the hiring of hourly employees, but is involved in the hiring of management and supervisory employees.

⁴⁷ Employees in job classifications that do not involve welding are trained by the department superintendent or supervisor. Although Albert's title indicates that he also has safety training duties, no information as to these duties was offered at the hearing.

⁴⁸ Generally, the fourth week of training is dedicated to Albert's observation of the trainee and the completion of required paperwork.

train six employees at a time. Albert also works with existing employees to the extent that they are required to obtain welding recertifications.

Albert reports any difficulty with training to the Plant Manager or the Assistant Plant Manager, but makes no recommendation as to how the Employer should handle the issue.⁴⁹ The Employer asserts, and the record does not disclose evidence to the contrary, that Albert has no supervisory authority. Likewise, no employees report to Albert. When he is in the shop area Albert wears the same safety equipment as that worn by railcar mechanics, supervisors and superintendents.⁵⁰

Other than participating in fabricating plant equipment with his trainees, Albert performs no production work. Albert does not substitute for any production employee at the facility, and none of the production employees substitute for Albert. Albert will receive his yearly evaluation from a member of the Employer's corporate staff along with Plant Manager Schaffer. As noted previously, Albert is listed among Management and Administration in exhibits introduced by the Employer at the hearing.

On the evidence adduced in the record, I find that the weld/safety trainer's duties and functions are distinct from those of the repair mechanics with whom he interacts, and thus the weld/safety trainer does not possess such a close community of interest with the repair mechanics as to require his inclusion in the unit. In this regard, Albert performs no production work on railcars. His work is performed in his office, the conference room and the weld lab area. In addition, Albert is a salaried employee who, unlike those he trains, reports directly to the Plant Manager and the Employer's

⁴⁹ Since Albert has been employed, one trainee was terminated before completing the new employee welding training. According to Plant Manager Schaffer, the Superintendent Repair terminated the employee, and the Plant Manager did not know whether the superintendent consulted with Albert.

⁵⁰ This safety equipment includes a hard hat, safety glasses, earplugs, harness, knee pads and steel toed shoes or boots.

corporate office. See Automobile Club of Missouri, 209 NLRB 614 (1974) (Sales trainer who conducted three-week training programs for new insurance salesmen and also conducted retraining programs lacked a community of interest with the insurance salesmen in the unit.); Texprint, Incorporated, 253 NLRB 1101 (1981) (Board did not review regional director's determination that trainer-technicians were excluded from a production and maintenance unit because they lacked a community of interest with the unit employees.)⁵¹ Accordingly, I shall exclude weld/safety trainer James Albert from the unit.

V. FINDINGS AND CONCLUSIONS

Based upon the entire record in this matter and in accordance with the discussion above, I find and conclude as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction in this matter.
3. The Petitioner claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

⁵¹ In its brief, the Employer cites Fairfax Family Fund, Inc., 195 NLRB 306 (1972), for the proposition that duties as a trainer or instructor do not disqualify an employee from representation as part of the unit composed in part of rank-and-file employees who are instructed by the trainer. In Fairfax, the employer asserted that the trainer should be excluded as a supervisory or managerial employee, contentions the Board found had no merit. The Board included the trainer who, unlike Albert, formerly worked in the position of the employees he trained and who reported to and was supervised by the same department manager as the employees he trained.

All full-time and regular part-time production and maintenance, employees, including railcar mechanics, inspectors, valve rebuilders, valve finishers, railcar cleaners, painters, blasters, switchmen, maintenance employees, material handlers and inventory control associate employed by the Employer at its DuBois, Pennsylvania facility; excluding the weld/safety trainer, office clerical employees, including the customer service representative, and guards, professional employees and supervisors as defined in the Act, and all other employees.

VI. DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for purposes of collective bargaining by United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC. The date, time and place of the election will be specified in the Notice of Election that the Board's Regional Office will issue subsequent to this Decision.

A. Voting Eligibility

Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike that have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged

for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

B. Employer to Submit List of Eligible Voters

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. Excelsior Underwear, Inc., 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Company, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within seven (7) days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list containing the full names and addresses of all the eligible voters. North Macon Health Care Facility, 315 NLRB 359, 361 (1994). This list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). Upon receipt of the list, I will make it available to all parties to the election.

To be timely filed, the list must be received in the Regional Office, Two Chatham Center, Suite 510, 112 Washington Place, Pittsburgh, PA 15219, on or before March 27, 2008. No extension of time to file this list will be granted, except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission at 412/395-5986. Since the list will be made available to all parties to the election, please furnish a total of **two (2)** copies, unless the list is submitted by facsimile,

in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

C. Notice of Posting Obligations

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices of Election provided by the Board in areas conspicuous to potential voters for a minimum of three (3) full working days prior to 12:01 a.m. of the day of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least five (5) full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. Club Demonstration Services, 317 NLRB 349 (1995). Failure to do so precludes employers from filing objections based on non-posting of the election notice.

VII. RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001.⁵² This request must be received by the Board in Washington by 5 p.m., EST (EDT), on April 3, 2008. The request may **not** be filed by facsimile.

Dated: March 20, 2008

/s/ Gerald Kobell

Gerald Kobell, Regional Director

NATIONAL LABOR RELATIONS BOARD
Region Six
Two Chatham Center, Suite 510
112 Washington Place
Pittsburgh, PA 15219

Classification Index

177-8560-1500
347-8020-2000
347-8020-2025
401-7550
420-7950

⁵² A request for review may be filed electronically with the Board in Washington, D.C. The requirements and guidelines concerning such electronic filings may be found in the related attachment supplied with the Regional Office's initial correspondence and at the National Labor Relations Board's website, www.nlrb.gov, under "E-Gov." On the home page of the website, select the **E-Gov** tab and click on **E-Filing**. Then select the NLRB office for which you wish to E-File your documents. Detailed E-Filing instructions explaining how to file the documents electronically will be displayed.